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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/686,798	10/16/2003	Richard A. Sunshine	US20000055-1	7931

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WHIRLPOOL PATENTS COMPANY - MD 0750
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ST. JOSEPH, MI 49085

EXAMINER

PERRIN, JOSEPH L

ART UNIT	PAPER NUMBER
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1746

DATE MAILED: 05/03/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/686,798

Applicant(s)

SUNSHINE ET AL.

Examiner

Joseph L. Perrin, Ph.D.

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 04 February 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-45 is/are pending in the application.
- 4a) Of the above claim(s) 2-9 and 25-44 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1, 10-24, 45 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Response to Arguments

1. In response to applicant's response filed 04 February 2005, the status of the application is as follows:

Rejection under 35 U.S.C. §112, second paragraph

The rejection of claims 19 & 21-24 under 35 U.S.C. §112, second paragraph, is withdrawn in view of applicant's arguments and amendment overcoming the rejection.

Rejection under 35 U.S.C. §102

Applicant's arguments with respect to the rejection over SANKA have been fully considered but they are not persuasive. In response to applicant's argument that "Sanka teaches that the clothes dryer 30 and upper section A are one space and necessarily linked to one another" and "Applicants invention discloses two separate and distinct drying spaces", this is not persuasive because applicant's arguments are not commensurate in scope with the claimed invention. The "discrete" space as claimed does not include any structural elements defining that the spaces are separated by any structure. As can be clearly seen in the Figures of SANKA, the component A of SANKA is in a "discrete space" relative to space 30. Accordingly, recitation of SANKA reads on applicant's claimed invention. It is further noted that the intended use of the "space", i.e. "drying" or "washing" is intended use and given little patentable

weight. A recitation of the intended use of the claimed invention must result in a structural difference between the claimed invention and the prior art in order to patentably distinguish the claimed invention from the prior art. If the prior art structure is capable of performing the intended use, then it meets the claim. See *In re Casey*, 370 F.2d 576, 152 USPQ 235 (CCPA 1967) and *In re Otto*, 312 F.2d 937, 939, 136 USPQ 458, 459 (CCPA 1963). Since the claims are directed to an empty space without any recitation of a structural drying or washing element arranged inside the space, the claims are construed as reading on a cabinet with empty spaces capable of housing such structures.

Rejection under 35 U.S.C. §103

Applicant's arguments with respect to the rejection over SANKA in view of PROCTOR have been fully considered but they are not persuasive. Applicant's arguments repeated from SANKA above are not persuasive for reasons of same.

Applicant's arguments with respect to the rejection over SANKA in view of RICE have been fully considered but they are not persuasive. Applicant's arguments repeated from SANKA above are not persuasive for reasons of same.

Claim Rejections - 35 USC § 102

2. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.
3. Claims 1, 10, 12-14, 20 & 45 are rejected under 35 U.S.C. 102(b) as being anticipated by SANKA (previously cited). Re claim 1, SANKA discloses (for instance in

Figures 1-7 and relative associated text) a laundry cabinet assembly including space for washer 40, a space for clothes dryer 30, a supplemental drying space A, a plurality of removable exterior decorative fascia panels 21-23 (fancy plywood), and an air moving device arranged to deliver air into and out of the supplemental drying space A (see air circuit dehumidification system of clothes dryer 30 in paragraphs [0030] – [0032]). Re claim 10, SANKA discloses a slidable shelf 70 (see paragraph [0023]). Re claims 12-13, SANKA further discloses a rod in the supplemental drying space for supporting clothes on a hanger (see Figure 6 and paragraph [0025]). Re claim 14, SANKA further discloses the cabinet having an open front side with cover panels 50/60 (see paragraph [0025] and Figures). Re claim 20, SANKA further discloses a perforated horizontal surface on the bottom of the supplemental drying space (see Figure 7). Re claim 45, SANKA discloses the cabinet being formed by installing panels 21-23 (see paragraphs [0014] & [0019]) which implicitly discloses the cabinet having a frame structure for fastening the panels thereto.

Claim Rejections - 35 USC § 103

4. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

5. Claims 11, 15-16 & 21-24 are rejected under 35 U.S.C. 103(a) as being unpatentable over SANKA in view of PROCTOR (previously cited). Recitation of SANKA is repeated here from above. Although SANKA does disclose a drying space in the cabinet and a slidable shelf/rack, SANKA does not expressly disclose multiple

slidable shelves/racks. PROCTOR teaches that it is well known to provide a drying cabinet with slidable drawers for supporting articles to be dried as well as accessing/extracting the article before and after drying (see page 2, line 1 *et seq.* of PROCTOR). Therefore, the position is taken that a person of ordinary skill in the art at the time the invention was made would have been motivated to modify the drying cabinet of SANKA with the slidable drawers of PROCTOR for the purpose of providing support and easy access to a plurality of articles which are to be dried. The drawers of PROCTOR read on applicant's claimed "slidable shelves", "slidable rack" and "shoe dryer". Moreover, it is noted that the use of the drawers are considered intended use and given little weight.

6. Claims 17-19 are rejected under 35 U.S.C. 103(a) as being unpatentable over SANKA in view of RICE (previously cited). Recitation of SANKA is repeated here from above. Although SANKA does disclose a drying space in the cabinet, SANKA does not expressly disclose shoe dryers. RICE teaches that it is well known to dry hollow articles such as boots and gloves using dryers by inserting heated air into the articles (col. 1, line 13 *et seq.*) and further discloses a portable dryer for such hollow articles with convenient portability and storage, the portable dryer having a bottom support 134, a stem portion 22 for insertion into the hollow article to be dried, an air flow outlet at the end of the stem 116/117, and an air moving device 16 (see col. 1, lines 7-11 & Figures 1-2, 6, and relative associated text). Therefore, the position is taken that a person of ordinary skill in the art at the time the invention was made would have been motivated

to modify the drying cabinet of SANKA with the portable shoe dryers of RICE for the purpose of improved, more efficient drying of hollow articles such as shoes.

Conclusion

7. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).
8. A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.
9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Joseph L. Perrin, Ph.D. whose telephone number is (571)272-1305. The examiner can normally be reached on M-F 7:00-4:30, except alternate Fridays.
10. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael E. Barr can be reached on (571)272-1414. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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11. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Joseph L. Perrin, Ph.D.
Examiner
Art Unit 1746

jlp